

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:07-HC-2207-BR

UNITED STATES OF AMERICA)	
)	
Petitioner,)	
)	MOTION FOR VOLUNTARY
v.)	DISMISSAL WITH LEAVE OF
)	COURT AND WITH PREJUDICE
ANDREW F. GALO,)	
)	
Respondent.)	

Petitioner the United States of America, by and through the United States Attorney for the Eastern District of North Carolina, pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure, hereby moves the Court to voluntarily dismiss, with prejudice, the certification of a sexually dangerous person against Respondent, Andrew F. Galo.

A settlement agreement, subject to the Court's approval, is attached hereto as Exhibit A, which details the manner in which the parties propose that this matter be concluded. Pursuant to the terms of the settlement agreement, the parties jointly request that the Court conduct a hearing to inquire of counsel for the United States, the Respondent, and Respondent's counsel whether each of them personally affirms in open court that the terms and conditions of the settlement agreement have been

entered and undertaken knowingly and voluntarily after having adequate opportunity to seek counsel.

WHEREFORE, Petitioner requests that the Court allow Petitioner to voluntarily dismiss, with prejudice, the certification of a sexually dangerous person against Respondent, Andrew F. Galo subject to the above-mentioned terms.

Respectfully submitted, this the 10th day of August, 2011.

THOMAS G. WALKER
United States Attorney

By: /s/ W. Ellis Boyle
W. ELLIS BOYLE
Attorney for Defendants
Assistant United States Attorney
Civil Division
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N.C. Bar No. 33826

CERTIFICATE OF SERVICE

I do hereby certify that a copy of the foregoing has been served upon John Keating Wiles, counsel for respondent, by electronically filing the foregoing with the Clerk of Court this date, August 10, 2011, using the CM/ECF system which will send notification of such filing to the above.

BY: /s/ W. Ellis Boyle
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Attorney for Petitioner

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
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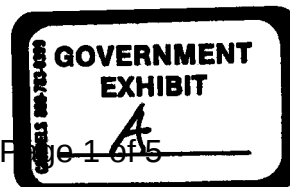
UNITED STATES OF AMERICA)	
)	
v.)	SETTLEMENT AGREEMENT
)	
ANDREW GALO,)	
Respondent)	

Petitioner, the United States of America, by and through the United States Attorney for the Eastern District of North Carolina, and the Respondent, Andrew Galo, by and through his counsel of record, John Keating Wiles, have agreed that this matter should be concluded in accordance with terms and conditions of this agreement as follows:

1. This agreement constitutes the full and complete record of the agreement of this matter. There are no other terms of this agreement in addition to or different from the terms contained herein.

2. Respondent admits and stipulates that the United States certified the Respondent as a sexually dangerous person under 18 U.S.C. § 4248 pursuant to lawful procedures, and his release from imprisonment was stayed on November 14, 2007.

3. The Respondent admits and stipulates that the criminal judgment against him in the matter of United States of America v. Andrew Galo, in the U.S. District Court for the Western District



of Pennsylvania, Docket No. CR 99-00050-001, on April 12, 2001, imposed upon him a three (3) year term of supervised release, and that the judgment ordered that the term of supervised release was to be served "upon release from imprisonment." [Criminal Docket Entry 46]. The Respondent admits and stipulates that, by the operation of law defined by 18 U.S.C. § 4248, his "release" from imprisonment was "stayed," and that, consequently, his term of supervised release has not commenced. See e.g. David H. Tobey v. United States, Civil Action No. DKC 10-1358, Docket Entry 35 (Chasanow, Judge) (D. Md.)

4. The Respondent agrees and promises that, in consideration of the government's agreement to voluntarily dismiss this action with prejudice, he will not collaterally attack the order of supervised release contained in the criminal judgment against him.

5. The Respondent further agrees and promises that, in consideration of the government's agreement to voluntarily dismiss this action with prejudice, he waives his statutory right to a hearing on the modification of the conditions of his supervised release, as evidenced by his signature on the waiver, witnessed by his counsel of record, John Keating Wiles, and agrees to the conditions of supervised release, as shown to the Court as Exhibit 1, attached hereto.

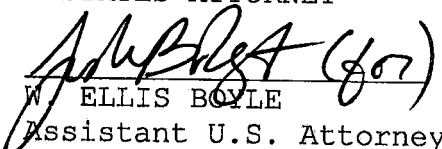
6. The Petitioner agrees and promises that, in consideration of the Respondent's admissions and stipulations set out in Paragraphs 2 through 3 above and the Respondent's agreements and promises in Paragraphs 4 through 5 above, the United States will file a motion under Fed. R. Civ. P. 41, asking the Court to dismiss this action with prejudice and to lift the stay on the Respondent's release from imprisonment.

7. The Petitioner and the Respondent jointly request that the Court conduct a hearing to inquire of counsel for the United States, the Respondent, and the Respondent's counsel whether each of them personally affirms in open court that the terms and conditions of this settlement agreement have been entered and undertaken knowingly and voluntarily after having had adequate opportunity to seek counsel.

Respectfully submitted, this the ____ day of August, 2011.

THOMAS G. WALKER
UNITED STATES ATTORNEY

BY:


W. ELLIS BOYLE
Assistant U.S. Attorney

x

ANDREW F. GALO
Respondent



John Keating Wiles
Attorney for Respondent

APPROVED, this ____ day of _____, 2011.

EARL W. BRITT
United States District Judge

United States District Court

Western District of Pennsylvania

Waiver of Hearing to Modify Conditions of Supervised Release

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Supervised Release. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Supervised Release:

The defendant shall reside in a Community Corrections Center for a period not to exceed 180 days or until discharged by the Probation Office.

The defendant shall participate in a mental health and/or sex offender treatment program, approved by the probation officer, until such time as the defendant is released from the program by the Court. The defendant shall abide by all program rules, requirements, and conditions of the sex offender treatment program, including submission to polygraph testing, to determine if he is in compliance with the conditions of release. The Probation Office is authorized to release the defendant's presentence report to the treatment provider if so requested.

With the exception of brief, unanticipated, and incidental contacts, the defendant shall not associate with children under the age of 18 except for family members or children in the presence of an adult who has been approved by the probation officer.

As required by 18 U.S.C. §§ 3563 (a) (8) and 3583 (d), and the Sex Offender Registration and Notification Act (SORNA, 42 U.S.C. §16901 et seq.), the defendant shall report the address where he will reside and any subsequent change of residence to the probation officer responsible for defendant's supervision, and further shall register as a convicted sex offender in any state where he resides, is employed, carries on a vocation, or is a student.

The defendant shall not possess any materials, including pictures, photographs, books, writings drawings, videos, or video games depicting and/or describing child pornography as defined at 18 U.S.C. § 2256(8).

The defendant's conditions of release are hereby amended, and it is ordered that the defendant register as a convicted sex offender in any state where he resides, is employed, carries on a vocation, or is a student. The defendant shall register within 3 business days of the sentencing judgement.

The defendant is permitted to possess and/or use a computer and is allowed access to the Internet. However, the defendant is not permitted to use a computer, or other electronic communication or data storage devices, including a cell phone, to access child pornography or to communicate with any

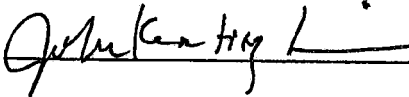

individual or group for the purpose of promoting sexual relations with children. The defendant shall consent to the installation of any hardware/software to monitor any computer, or other electronic communication or data storage devices used by the defendant to confirm the defendant's compliance with this condition. The defendant shall pay the monitoring costs as directed by the probation/pretrial services officer. Furthermore, the defendant shall consent to periodic unannounced examinations by the probation/pretrial services officer of any computers, cell phones, or other electronic communication or data storage devices that the defendant has access to, to confirm the defendant's compliance with this condition.

Additionally, the defendant shall consent to the seizure and removal of hardware and data storage media for further analysis by or the probation/pretrial services officer, based upon reasonable suspicion of a violation of the conditions imposed in this case, or based upon reasonable suspicion of unlawful conduct by the defendant. The defendant's failure to submit to the monitoring and/or search of computers and other electronic communication or data storage devices used by the defendant may be grounds for revocation.

If the defendant's employment requires the use of a computer, the defendant may use a computer in connection with the employment approved by the probation/pretrial services officer, provided the defendant notifies his or her employer of the nature of his or her conviction (charge). The probation/pretrial services officer shall confirm the defendant's compliance with this notification requirement.

The defendant shall provide the U.S. Probation Office with accurate information about his/her entire computer system (hardware/software) and other electronic communication or data storage devices or media to include all passwords used and the name of the Internet Service Provider(s). The defendant also shall abide by the provisions of the Computer Restrictions and Monitoring Program approved by the Court.

The defendant shall submit his person, property, house, residence, vehicle, papers, business or place of employment, to a search, conducted by a United States probation/pretrial services officer at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of supervision. Failure to submit to a search may be grounds for revocation. The defendant shall inform any other residents that the premises may be subject to searches pursuant to this condition.

Witness:  Signed: 
Andrew F Galo
Probationer or Supervised Releasee

8-10-2011
Date

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:07-HC-2207-BR

UNITED STATES OF AMERICA)	
)	
Petitioner,)	
)	PROPOSED ORDER
v.)	
)	
ANDREW F. GALO,)	
)	
Respondent.)	

The Court has considered Petitioner's Motion for Voluntary Dismissal With Leave of Court and With Prejudice, and the Settlement Agreement entered into between the parties. The United States, the Respondent, and Respondent's counsel have each personally affirmed in open court that the terms and conditions of the settlement agreement have been entered and undertaken knowingly and voluntarily after having adequate opportunity to seek counsel. The Court finds as a fact that the parties knowingly and voluntarily entered into the Settlement Agreement.

IT IS HEREBY ORDERED that pursuant to Rule 41(a)(2), Fed. R. Civ. P., and for good cause, this action is DISMISSED WITH PREJUDICE.

IT IS FURTHER ORDERED that the stay of Respondent's release from Bureau of Prisons custody is lifted, and Respondent is

ordered to be released from Bureau of Prisons custody. As set out in the criminal judgment in the matter of United States of America v. Andrew Galo, in the U.S. District Court for the Western District of Pennsylvania, Docket No. CR 99-00050-001, on April 12, 2001, the Respondent shall report to the probation office in the Western District of Pennsylvania within 72 hours of his release.

This the ____ day of August, 2011.

District Judge W. Earl Britt